

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of STEVE HAMEEN ALI and U.S. POSTAL SERVICE,
POST OFFICE, Hyattsville, Md.

*Docket No. 97-2463; Submitted on the Record;
Issued June 28, 1999*

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs properly terminated appellant's compensation effective August 3, 1996 on the grounds that residuals of his accepted employment injury had ceased.

On July 8, 1994 appellant, a letter carrier, filed a claim asserting the following:

"When I arrive at work, I feel fine. After being in the office, where there is a tremendous amount of dust, I begin to feel dizzy, eyes become watery and nose begins to run. Later, I go out to deliver my route. As the day wears on, I start to feel worse, with headaches and shortness of breath. As soon as I get out of the heat/cold, I begin to feel [somewhat] better."

Appellant stopped worked on April 26, 1995 and did not return. His attending allergist, Dr. Isaac Weiszer, supported a work-related aggravation of appellant's allergic rhinitis. Dr. Samuel J. Scott, a Board-certified internist specializing in allergy and immunology, also supported a work-related aggravation. On November 6, 1995 he reported that appellant began working for the employing establishment in 1985 and began having more problems with postnasal drainage and nasal blockage. "His symptoms gradually progressed over time," Dr. Scott reported, "to include episodes of sneezing, post nasal drainage, runny nose, headaches and scratchy throat." He diagnosed moderately severe allergic rhinitis, deviated septum secondary to previous injuries and status post rhinoplasty. Stating that he had reviewed the statement of accepted facts, medical records, letters and all of the medical evidence, including the history and physical examination, Dr. Scott concluded that appellant's condition of moderately severe allergic rhinitis was aggravated by his working conditions. He added: "[Appellant's] allergic rhinitis was made more severe for a time without residual alteration of the underlying condition."

The Office accepted that appellant had sustained an aggravation of his allergic rhinitis and paid compensation for intermittent periods of disability.

On May 23, 1996 the Office requested that Dr. Scott clarify the nature and extent of the work-related aggravation. The Office asked him to address the following: (1) As of November 6, 1995, had the work-related aggravation of appellant's preexisting condition of allergic rhinitis ceased?; and (2) As of November 6, 1995, had [appellant] returned to his preinjury state?

On June 24, 1996 Dr. Scott's reported as follows:

"In response to the questions in your letter dated [May 23, 1996]:

"(1) Mr. Ali's work-related aggravation of his preexisting allergic rhinitis has ceased by November 6, 1995.

"(2) Although he continued to have symptoms related to his underlying condition he had returned to his baseline state as of November 6, 1995."

On July 10, 1996 Dr. Weiszer reported that appellant found that exposure to dust, heat, fumes, smoke, poor ventilation and outdoors was resulting in increased symptoms. Dr. Weiszer recommended that appellant resume a regular program of immunotherapy because of the degree of difficulty that he was having and the fact that his symptoms were not helped by medications. He stated:

"[Appellant] continues to have moderately severe symptoms of allergic rhinitis and medication are only helping partially. Whether or not his persistent symptoms, which were aggravated by work in the past, are still difficult [sic] because of this aggravation is difficult to tell but it is my impression that his symptoms are more severe than they were initially when I saw him at the V[eteran] A[dministration] Hospital [in 1994]."

In a decision dated August 2, 1996, the Office terminated appellant compensation effective August 3, 1996 on the grounds that the weight of the medical evidence, as represented by the opinion of Dr. Scott, demonstrated that injury-related disability had ceased.

The Board finds that the Office has not met its burden of proof to justify the termination of appellant's compensation.

It is well established that, once the Office accepts a claim, it has the burden of proof to justify termination or modification of compensation benefits.¹ After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.² The Office's procedure manual provides that, having accepted a

¹ *Harold S. McGough*, 36 ECAB 332 (1984).

² *Vivien L. Minor*, 37 ECAB 541 (1986); *David Lee Dawley*, 30 ECAB 530 (1979); *Anna M. Blaine*, 26 ECAB

claim and initiated payments, the Office may not terminate compensation without a positive demonstration, by the weight of evidence, that entitlement to benefits has ceased.³ The inadequacy or absence of a report in support of continuing benefits is not sufficient to support termination and benefits should not be suspended for that reason.⁴

The Office accepted that appellant sustained an aggravation of his allergic rhinitis while in the performance of duty. The Office terminated compensation for the accepted aggravation on the grounds that the opinion of Dr. Scott represented the weight of the medical evidence. The Board finds, however, that Dr. Scott's opinion, while supportive of the Office's action, is of diminished probative value and is insufficient to establish that the accepted aggravation has ceased.

In his November 6, 1995 report, Dr. Scott stated that appellant's allergic rhinitis was made more severe for a time without residual alteration of the underlying condition, but he did not explain how he reached this conclusion. In his June 24, 1996 report, he responded to the Office's request for further information by stating that the work-related aggravation had ceased by November 6, 1995 and that, although appellant continued to have symptoms related to his underlying condition, he had returned to his baseline state as of November 6, 1995. Once again, however, Dr. Scott did not explain the basis for this determination. He did not discuss appellant's "baseline state" or to show how appellant's underlying condition had remained unaffected by his occupational exposure or to demonstrate, through clinical findings or other discussion, that any work-related aggravation has ceased. Without a reasoned medical discussion sufficient to establish that the conclusion drawn is rational, sound and logical, his opinion is of little probative value and is insufficient to establish that the accepted aggravation has ceased.⁵ The Office has not met its burden of proof.

351 (1975).

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Periodic Review of Disability Cases*, Chapter 2.812.3 (July 1993).

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Periodic Review of Disability Cases*, Chapter 2.812.7(c)(1) (July 1993).

⁵ The Board has held that medical conclusions unsupported by rationale are of little probative value. *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954). Cf. *Kenneth J. Deerman*, 34 ECAB 641, 645 (1983) and cases cited therein at note 1.

The August 2, 1996 decision of the Office of Workers' Compensation Programs is reversed.

Dated, Washington, D.C.
June 28, 1999

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member